

APPENDIX B.2.

GUIDELINES FOR RELEASING INFORMATION CONTAINED IN A PROTECTIVE SERVICE RECORD CATEGORIZED AS A VOLUNTARY REPORT

Requested By:	Voluntary Report
Alleged Perpetrator or Perpetrator	<ul style="list-style-type: none">• §15.82(2) allows for the perpetrator to request, and the agency to provide, a brief summary of information contained in the report.• The release of data that would identify the reporter or an individual who cooperated in a subsequent investigation may not be released (§15.105(5)).
Attorney for the Older Adult	<ul style="list-style-type: none">• §15.105(4) allows for the attorney providing legal services for the older adult to receive, upon written request, information contained in the report.• The release of data that would identify the reporter or an individual who cooperated in a subsequent investigation may not be released (§15.105(5)).• When pursuing and involuntary intervention under §15.71(b) the agency is permitted to release sufficient information about the risk to the older adult and the proposed remedy. Notification to the attorney shall include a copy of the petition and information on the hearing location, date and time.
Attorney General	<ul style="list-style-type: none">• Information is only released by a court order.• The release of data that would identify the reporter or an individual who cooperated in a subsequent investigation may not be released (§15.105(5)).
Older Adult	<ul style="list-style-type: none">• §15.81(1) requires the protective service worker to provide the older adult with a brief summary of the nature of the report.• §15.81(2) allows for additional information contained in the report to be released to the older adult if requested in writing by the older adult subject to the requirements in §15.105.• The release of data that would identify the reporter or an individual who cooperated in a subsequent investigation may not be released (§15.105(5)).
Coroner	<ul style="list-style-type: none">• A coroner is not considered law enforcement.• §15.46(g) requires and authorizes an oral report to the coroner when there is a nexus between the death of an older adult and the need for protective services (No written report is completed for voluntary reports).• Protective service records are not automatically released to the coroner. Records obtained during an investigation can be released when a coroner subpoena is received. Complying with the coroner subpoena and releasing the information is at the discretion of the agency.

	<ul style="list-style-type: none"> • The release of data that would identify the reporter or an individual who cooperated in a subsequent investigation may not be released to the coroner (§15.105(5)).
Court Order	<ul style="list-style-type: none"> • Under §15.105(1) relevant information can be released to a court of competent jurisdiction or under a court order. The agency shall disclose case record information for the purpose of an in-camera review by the court when asked to do so. • Subpoenas are not court orders. (Except a grand jury subpoena) • The release of data that would identify the reporter or an individual who cooperated in a subsequent investigation may not be released (§15.105(5)).
Department of Aging	<ul style="list-style-type: none"> • §15.103 and §15.105(6) allows Department of Aging staff access to all protective service records for appeals and to monitor AAA performance.
Department of Human Services Department of Health	<ul style="list-style-type: none"> • §15.45(b)(1) requires immediate notification to licensing of reports received. • The release of data that would identify the reporter is prohibited (§15.105(5)). • §15.45(b)(2) requires that the protective service worker and licensing coordinate investigative activities and findings.
Grand Jury Subpoena	<ul style="list-style-type: none"> • §15.105(1) allows for information to be disclosed to a court of competent jurisdiction or under a court order. A grand jury subpoena is a court order. • The release of data that would identify the reporter or an individual who cooperated in a subsequent investigation may not be released (§15.105(5)).
Guardian (Court Appointed)	<ul style="list-style-type: none"> • §15.81(1) requires the protective service worker to provide the older adult with a brief summary of the nature of the report. The guardian, as the surrogate decision maker, may receive the summary unless they are the alleged abuser. • §15.81(2) allows for additional information to be released to the older adult if requested by the older adult. The guardian, as the surrogate decision maker, may request, in writing, information contained in the report (§15.105(4)). • The release of data that would identify the reporter or an individual who cooperated in a subsequent investigation may not be released (§15.105(5)).
Managed Care Organizations (MCO)	<ul style="list-style-type: none"> • The release of data that would identify the reporter is prohibited (§15.105 (5)). • §15.45 (b)(2) requires that the protective service worker and licensing coordinate investigative activities and findings. • 15.45 (b) (1) requires immediate notification to licensing of reports received. For MCO's notification is as soon as the AAA discovers that the individual is involved with an MCO.

Law Enforcement	<ul style="list-style-type: none"> • §15.105 (2) allows for the release of relevant records to law enforcement if an investigation results in a report of criminal conduct. • The release of data that would identify the reporter or an individual who cooperated in a subsequent investigation may not be released (§15.105(5)).
Ombudsman	<ul style="list-style-type: none"> • §15.45 (4) requires that protective services notify the ombudsman of reports received regarding facilities as defined and whether an investigation will be completed. • When appropriate referrals to the ombudsman are to be completed, only relevant information, related to ombudsman services is provided. • The release of data that would identify the reporter or an individual who cooperated in a subsequent investigation may not be released (§15.105(5)).
Out of State Agency that Provides Protective Services	<ul style="list-style-type: none"> • Written records and information contained in the record may not be provided unless the older adult signs a release. • The release of data that would identify the reporter or an individual who cooperated in a subsequent investigation may not be released (§15.105(5)). • Nothing prohibits the agency from making a report for protective services in another state and providing sufficient information for the receiving agency to conduct an investigation.
Power of Attorney	<ul style="list-style-type: none"> • No access to records or information contained in the report. • A power of attorney may be interviewed as a collateral contact during an investigation but has no right to information gathered during the investigation. • A power of attorney may have appropriate information (related to the care needs), for a substantiated report, if the power of attorney is made part of the service plan (§15.93).
Reporter (Voluntary)	<ul style="list-style-type: none"> • No access to records or any information is permitted including the status of the investigation or investigative outcome. • Reporters do not receive information on how the report is categorized. • Reporters are not told if a report will be investigated.
Service Providers	<ul style="list-style-type: none"> • §15.105(3) allows the agency to disclose information, to appropriate service providers, necessary to initiate the delivery of service in the older adult's service plan. • No other information may be disclosed.
Subpoena	<ul style="list-style-type: none"> • No access to records is permitted. (Unless a subpoena is issued by a grand jury)

**Guidelines for Releasing Information Contained in a
Protective Service Record Categorized as a Mandatory Report**

Requested By:	Mandatory Report
Alleged Perpetrator (Perpetrator)	<ul style="list-style-type: none"> • §15.82 (2) allows for the perpetrator to request, and the agency to provide, a brief summary of information contained in the report. The release of data that would identify the reporter or an individual who cooperated in a subsequent investigation may not be released. • §15.157 (d) allows for, upon written request the perpetrator may receive a copy of all information except what is prohibited by §15.157 (e). • §15.157 (e) prohibits the release of data that would identify the reporter or an individual who cooperated in a subsequent investigation.
Attorney for the Older Adult	<ul style="list-style-type: none"> • §15.105 (4) allows for the attorney providing legal services to receive, upon written request, information contained in the report. • The release of data that would identify the reporter or an individual who cooperated in a subsequent investigation may not be released (§15.105 (5)). • §15.71 (b) allows the agency to release sufficient information about the risk to the older adult and the proposed remedy. Notification to counsel shall include a copy of the petition and information on the hearing location, date and time.
Attorney General	<ul style="list-style-type: none"> • §15.157 (8) allows for the release of relevant information concerning a report. • The release of data that would identify the reporter or an individual who cooperated in a subsequent investigation may not be released (§15.105 (5)).
Older Adult	<ul style="list-style-type: none"> • §15.81 (1) requires the protective service worker to provide the older adult with a brief summary of the nature of the report. • §15.81 (2) allows for additional information contained in the report to be released to the older adult if requested in writing by the older adult subject to the requirements in §15.105. §15.81 (7) allows for confidentiality of information received and maintained. • §15.157 (6) allows for the release of relevant information concerning a report, when requested by the older adult. • §15.157 (d) Upon written request the older adult may receive a copy of all information except what is prohibited by §15.157 (e). • §15.157 (e) prohibits the release of data that would identify the reporter or an individual who cooperated in a subsequent investigation.
Coroner	<ul style="list-style-type: none"> • A coroner is not considered law enforcement. • §15.154 (b) requires that when mandatory reports are received and there is reasonable cause to suspect that the older adult died of abuse, the agency must complete an oral and written report to the coroner. • Protective service records are not automatically released to the coroner. Records obtained during an investigation can be released when a

	<p>coroner subpoena is received. Complying with the coroner subpoena and releasing the information is at the discretion of the agency.</p> <ul style="list-style-type: none"> • The release of data that would identify the reporter or an individual who cooperated in a subsequent investigation may not be released to the coroner (§15.105 (5)).
Court Order	<ul style="list-style-type: none"> • Under §15.105 (1) relevant information can be released to a court of competent jurisdiction or under a court order. The agency shall disclose case record information for the purpose of an in-camera review by the court when asked to do so. • Subpoenas are not court orders. (Except a grand jury subpoena) • The release of data that would identify the reporter or an individual who cooperated in a subsequent investigation may not be released (§15.105 (5)).
Department of Aging	<ul style="list-style-type: none"> • §15.105 allows Department of Aging staff access to all protective service records for appeals and to monitor AAA performance.
Department of Human Services Department of Health	<ul style="list-style-type: none"> • §15.151 (c) and §15.45 (b) requires immediate notification to licensing. • The release of data that would identify the reporter is prohibited (§15.105 (5)). • §15.157 (2) allows for the release of relevant information to licensing. • The name of the reporter may not be shared. • §15.45 (2) requires that the protective service worker and licensing coordinate investigative activities and findings.
Grand Jury Subpoena	<ul style="list-style-type: none"> • §15.105 (1) allows for information to be disclosed to a court of competent jurisdiction or under a court order. A grand jury subpoena is a court order. • The release of data that would identify the reporter or an individual who cooperated in a subsequent investigation may not be released (§15.105 (5)).
Guardian (Court Appointed)	<ul style="list-style-type: none"> • §15.81 (1) requires the protective service worker to provide the older adult with a brief summary of the nature of the report. The guardian, as the surrogate decision maker, may receive the summary unless they are the alleged abuser. • §15.157 (6) allows for the release of relevant information concerning a report, when requested by the guardian. • The release of data that would identify the reporter or an individual who cooperated in a subsequent investigation may not be released (§15.105 (5)).
Law Enforcement (Does not include coroner)	<ul style="list-style-type: none"> • §15.157 (9) Information may be released to law enforcement as long as it is relevant in the course of investigating cases of abuse. • §15.157 (e) the name of the reporter and information on individuals that cooperated with the investigation can be released to law enforcement. Law enforcement are required to treat all reporting sources as confidential.

Managed Care Organizations (MCO)	<ul style="list-style-type: none"> • No access to records is permitted. • Reporters do not receive information on how the report is categorized. • Reporters are not told if a report will be investigated or not. • §15.157 (10) (i) allows the reporter to receive the final status of the report (Substantiated or Unsubstantiated) excluding the name of the person suspected of committing the abuse. • §15.157 (10) (ii) allows the reporter to receive information on what services will be provided (Service plan).
Ombudsman	<ul style="list-style-type: none"> • §15.45 (4) requires that protective services notify the ombudsman of reports received regarding facilities as defined and whether an investigation will be completed. • When appropriate referrals to the ombudsman are to be completed, only relevant information, related to ombudsman services is provided. • §15.157 (1) allows for the release of relevant information to the ombudsman. • The release of data that would identify the reporter or an individual who cooperated in a subsequent investigation may not be released (§15.105 (5)).
Out of State Agency that Provides Protective Services	<ul style="list-style-type: none"> • §15.157 (3) allows the release of relevant information concerning a report to an employee in another state that performs protective services. • The release of data that would identify the reporter or an individual who cooperated in a subsequent investigation may not be released (§15.105 (5)). <p>Nothing prohibits the agency from making a report for protective services in another state and providing sufficient information for the receiving agency to conduct an investigation.</p>
Power of Attorney	<ul style="list-style-type: none"> • No access to records or information contained in the report. • A power of attorney may be interviewed as a collateral contact during an investigation but has no right to information gathered during the investigation. • A power of attorney may have appropriate information (related to the care needs), for a substantiated report, if the power of attorney is made part of the service plan (§15.93).
Reporter (Mandatory)	<ul style="list-style-type: none"> • No access to records is permitted. • Protective service workers are required, under §15.151(c), to immediately notify the administrator or their designee when reports of abuse are received. • Reporters do not receive information on how the report is categorized. • Reporters are not told if a report will be investigated or not. • §15.157 (10) (i) allows the reporter to receive the final status of the report (Substantiated or Unsubstantiated) excluding the name of the person suspected of committing the abuse. <p>§15.157 (10) (ii) allows the reporter to receive information on what services will be provided (Service plan).</p>

Service Providers	<ul style="list-style-type: none">• §15.105 (3) allows the agency to disclose information, to appropriate service providers, necessary to initiate the delivery of service in the older adult's service plan.• §15.157 (4) Allows for the release of information (excluding the name of the person suspected of committing the abuse) to a practitioner of the healing arts who is examining or treating the older adult and who suspects that the older adult may be in need of protective services.
Subpoena	<ul style="list-style-type: none">• No access to records is permitted. (Unless a subpoena is issued by a grand jury)

Confidentiality for Voluntary and Mandatory Facility Reports

Under Protective Services for Older Adults there are different confidentiality requirements for voluntary facility reports and mandatory facility reports. Care should be taken to verify the type of report received before releasing any information.

Voluntary Reports Confidentiality Requirements for Reporters
<p>Under §15.105 (5) The release of information that would identify the person who made a report of suspected abuse, neglect, exploitation or abandonment or a person who cooperated in a subsequent investigation, is prohibited unless the Secretary can determine that the release will not be detrimental to the safety of the person.</p>
<p>Clarification:</p> <ul style="list-style-type: none">• The identity of a reporter is always protected.• Care must be taken to not name the reporter in any part of the protective services care plan journal or other parts of the record.• The only place a reporter's information is written is in the reporter information section of the Report of Need form.• The reporter's relationship to the older adult must not be written in the care plan journal or other parts of the record. The only place a reporters relationship information is written is in the reporter information section of the Report of Need form.• Pronouns that identify the gender of the reporter must not be used in the record.• Persons who cooperated with the investigation may not be disclosed.

Mandatory Reports Confidentiality Requirements for Reporters
<p>Under § 15.157 (a) <i>General rule</i>. Except as provided in subsection (b) and §15.105 (relating to limited access to records and disclosure of information), all information concerning a report under this chapter shall be confidential.</p> <p>See exception*</p>
<p>Clarification:</p> <ul style="list-style-type: none">• The identity of a reporter is always protected.*• Care must be taken to not name the reporter in any part of the protective services care plan journal or other parts of the record.• The only place a reporter's information is written is in the reporter information section of the Report of Need form.• The reporter's relationship to the older adult must not be written in the care plan journal or other parts of the record. The only place a reporters relationship information is written is in the reporter information section of the Report of Need form.• Pronouns that identify the gender of the reporter must not be used in the record.

- Persons who cooperated with the investigation may not be disclosed.*
- The reporter can receive the final status of the report (Substantiated or Unsubstantiated) excluding the name of the person suspected of committing the abuse.
- The reporter can receive information on what services will be provided (Service plan).

***Exception for releasing reporter information to law enforcement for mandatory reports *only*.**

Under §15.157 (e) *Protecting identity of person making report:*

Except for reports to law enforcement officials, the release of data that would identify the individual who made a report under this chapter or an individual who cooperated in a subsequent investigation is prohibited. Law enforcement officials shall treat all reporting sources as confidential.